

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

670L0291

HOUSE COMMERCE COMMITTEE ENGROSSED NO.

HB 1101 - 01/27/2005

Introduced by: Representatives Rounds, Boomgarden, Bradford, Elliott, Hargens, Hunt, Krebs, Olson (Ryan), Pederson (Gordon), Schafer, Sebert, and Street and Senators Schoenbeck, Abdallah, Broderick, McCracken, Moore, Nesselhuf, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to except contracts of independent contractors who are
2 captive insurance agents from the prohibition against contracts in restraint of trade.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 53-9-8 be amended to read as follows:

5 53-9-8. ~~Every~~ Any contract restraining exercise of a lawful profession, trade, or business is
6 void to that extent, except as provided by §§ 53-9-9 to 53-9-11, inclusive, and section 2 of this
7 Act.

8 Section 2. That chapter 53-9 be amended by adding thereto a NEW SECTION to read as
9 follows:

10 Any independent contractor who is an insurance producer as defined in subdivision 58-1-
11 2(16) and is a captive agent who is not an independent agent and who works exclusively for a
12 single insurance company or an affiliated group of insurance companies, even if the single
13 insurance company allows its captive agents to market the products of another insurance
14 company pursuant to contract, may agree with an insurer at the time of contracting or at any time



1 during the term of the contract:

2 (1) Not to engage directly or indirectly in the same business or profession as that of the
3 insurer for any period not exceeding two years from the date of termination of the
4 independent contractor's agreement with the insurer; and

5 (2) Not to solicit existing customers of the insurer within a specified county, first or
6 second class municipality, or other specified area for any period not exceeding two
7 years from the date of termination of the agreement, if the insurer continues to carry
8 on a like business within the specified area.